

# **Record Keeping Tips For Zoning Administration**

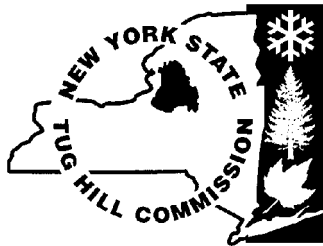
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**JAMES A. COON LOCAL GOVERNMENT TECHNICAL SERIES**



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“Local Government Topics” is a series of papers giving technical guidance on steps to be followed for a variety of problems, issues, and concerns that small local governments in New York State typically face. Other papers in the series are available from the Tug Hill Commission at the above address and phone number.

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## INTRODUCTION

Zoning review can be a very bureaucratic process. It involves handling a lot of paper – site plans, special permits, subdivisions, appeals, building permits, certificates of compliance, and enforcement actions. Properly managing this paperwork and keeping organized is often difficult, even in the best of circumstances. But, it is essential to effective zoning administration and enforcement.

Paperwork must be located where you can find it – and even more importantly, where the public can find it. Organized paperwork will help to avoid the unnecessary delays and confusion that results when records cannot be located during the review process, or in the subsequent years following the review.

The job can be made easier by :

**P** using the municipal clerk as a central repository for all records – as required by law, and

**P** by having local officials use checklists of actions taken, and filing checklists in such a way that they can be retrieved at a later date.

## WHAT ARE THE STATUTORY FILING REQUIREMENTS?

The New York State statutes have specific filing requirements which must be followed precisely. These requirements have been standardized by recent amendments to the planning and zoning enabling legislation for towns and villages.

**Site review** – the decision of the board shall be immediately filed in the office of the town (village) clerk within five business days after the decision is rendered (Town Law §274-a (8), Village Law §7-725-a (8)).

**Special permit** – the decision of the board shall be filed in the office of the town (village) clerk within five business days after the date such decision is rendered (Town Law §274-b (6), Village Law §7-725-b (6)).

**Subdivision** – within five business days from the date of the adoption of the resolution approving the final plat, the chairman or other duly authorized member of the planning board shall cause a copy of such resolution to be filed in the office of the town (village) clerk (Town Law §276 (9), Village Law §7-728 (9)).

**Appeals** – the decision of the board of appeals on the appeal shall be filed in the office of the town (village) clerk within five business days after the day such decision is rendered (Town Law §267-a (9), Village Law §7-712-a (9)).

## WHAT CONSTITUTES FILING?

Records must be placed under the control of the municipal clerk. If you are unsure whether your records are under the control of the clerk, check with your municipal attorney.

## WHY IS FILING SO IMPORTANT?

The statute of limitations for challenges to zoning actions generally runs 30 days from time of filing. This means that if records are not properly filed, the municipality may remain vulnerable to an Article 78 proceeding (challenge to an administrative act) until such time as the records are properly filed. Under Article 78, if a judge finds that the municipality violated the procedural requirements (including failure to keep required records), he may **require** the municipality to reverse its action.

## HOW SHOULD RECORDS BE FILED?

All records should be stamped with the date they are received by the municipal clerk. This will establish the date which starts the 30 day statute of limitations for challenges to the action. **File records by the location of the property by tax parcel number**, not the chronological date of their receipt.

## WHY FILE BY LOCATION?

Many times, it is extremely difficult for a person to remember the exact date that a zoning event occurs. Often the exact date is not relevant to the concern in question. But a person almost always knows, or can easily look up, the parcel location. Consider common reasons for people to search zoning records:

- P a potential home buyer, or their attorney, researching the history of building permits and variances on a property to be purchased
- P a planning board looking into past variances on a site plan before the board
- P a zoning enforcement officer verifying violations of previously approved plans
- P a town assessor looking into improvements on a property being reassessed

In all these cases, the location of the property is known. The possible dates of actions taken on these properties is in all likelihood unknown, and impossible to determine without expending enormous time and effort searching chronologically through planning board, zoning board and building/zoning permit records. Where records may date back several decades, it is usually not practical to even consider.

## **WHAT IS THE BEST MEANS OF IDENTIFYING PROPERTY LOCATIONS?**

A simple method is to use the tax parcel identification system. This is a ready made filing system that is infinitely expandable. Each new subdivision of land creates new subcategories of numbers. It is a simple system and is readily available for use by public officials. By keeping all records tagged with the tax parcel identification number, it is easy to route every record to its correct file location.

## **IS MORE THAN ONE FILING SYSTEM NECESSARY?**

No. Although some communities may wish to segregate planning board, zoning board and building/zoning permit records, there is no need to. An integrated record system should be considered for both simplicity and comprehensiveness. Simplicity is the key to most systems working effectively.

## **HOW CAN RECORDS BE SEARCHED CHRONOLOGICALLY?**

Review authorities should use procedural checklists as a routine for all project reviews (see examples in appendix). These checklists help to (1) keep the review authority aware of the necessary steps in the review process, and (2) to provide a permanent record of the sequence and timing of actions taken should the procedure be challenged at a later date. These checklists should be tagged with both the **tax parcel identification number**, as well as a chronological **project log number** for each project. Each authority (enforcement officer, board, etc.) carrying out a review should have a separate project log number sequence (ex. 96-1, 96-2, 96-3, etc.). This checklist should be retained by the review authority, possibly in the form of a notebook. It will provide a permanent cross-referenced record of the location of the associated records in the municipal clerk files.

## **SUMMARY**

It is important to follow the statutory filing requirements of state law, and file all records with the municipal clerk. File records by location using the tax parcel identification number, so that they may be more easily retrieved in the years following. Always use checklists to keep track of project reviews, and to provide a permanent record of where files are located in the municipal clerk's office.

Tax Parcel Number: Section: _____	Block: _____	Lot: _____
		Log No.: _____

**TOWN OF \_\_\_\_\_**  
**MINOR SUBDIVISION REVIEW PROCEDURE**

Proposed Development Name	Applicant Name and Address
_____	_____
_____	_____
_____	_____
_____	Phone (    ) _____

**Date of Action**

Sketch plan presented.	_____
Type of SEQR action determined to be:	_____
<input type="checkbox"/> type I <input type="checkbox"/> unlisted <input type="checkbox"/> other	_____
EAF form filed.	_____
Environmental significance determined by:	_____
<input type="checkbox"/> positive declaration <input type="checkbox"/> negative declaration <input type="checkbox"/> conditional negative declaration	_____
(Note: positive declaration will initiate steps not on this checklist)	
Fee paid.	_____
Plat accepted as complete.	_____
Application submitted to county planning agency. *	_____
County planning agency response received.*	_____
Motion to hold public hearing.	_____
Notice of hearing published in paper.	_____
Public hearing held--motion to close hearing.	_____
Action taken on the application:	
<input type="checkbox"/> conditional approval <input type="checkbox"/> conditional approval with modifications	_____
<input type="checkbox"/> disapproval <input type="checkbox"/> final approval	_____
Resolution addressing county planning agency review.*	_____
Conditionally approved plat mailed to subdivider.	_____
Conditionally approved plat signed when complete.	_____
Records filed with town clerk.	_____
Plat filed in the office of the county clerk.	_____
Report filed with county planning agency.*	_____

\*Counties with GML §239-n reviews only

Tax Parcel Number: _____	Section: _____	Block: _____	Lot: _____
			Log No.: _____

**TOWN OF \_\_\_\_\_**  
**MAJOR SUBDIVISION REVIEW PROCEDURE**

Proposed Development Name	Applicant Name and Address
_____	_____
_____	_____
_____	_____
_____	Phone (    ) _____

	<b>Date of Action</b>
Sketch plan presented.	_____
Type of SEQR action determined to be:	_____
<input type="checkbox"/> Type I <input type="checkbox"/> Unlisted <input type="checkbox"/> Other	_____
EAF form filed.	_____
Environmental significance determined by:	_____
<input type="checkbox"/> positive declaration <input type="checkbox"/> negative declaration <input type="checkbox"/> conditional negative declaration	_____
(Note: positive declaration will initiate steps not on this checklist)	
Preliminary plat fee paid.	_____
Preliminary plat accepted as complete.	_____
Application submitted to county planning agency.*	_____
County planning agency response received. *	_____
Motion to hold public hearing.	_____
Notice of hearing published in paper.	_____
Public hearing held--motion to close hearing.	_____
Preliminary action taken on the application:	_____
<input type="checkbox"/> Approval <input type="checkbox"/> Approval with modifications <input type="checkbox"/> Disapproval	_____
Final plat fee paid	_____
Final plat accepted as complete.	_____
Motion to waive or hold public hearing.	_____
Notice of hearing published in paper.	_____
Public hearing held--motion to close hearing.	_____
Final action taken on the application:	_____
<input type="checkbox"/> conditional approval <input type="checkbox"/> conditional approval with modifications	_____
<input type="checkbox"/> disapproval <input type="checkbox"/> final approval	_____
Resolution addressing county planning agency review.*	_____
Conditionally approved plat mailed to subdivider.	_____
Conditionally approved plat signed when complete.	_____
Records filed with town clerk.	_____
Plat filed in the office of the county clerk	_____
Report filed with county planning agency.	_____

\*Counties with GML §239-n reviews only

**Tax Parcel Number:** \_\_\_\_\_ **Section:** \_\_\_\_\_ **Block:** \_\_\_\_\_ **Lot:** \_\_\_\_\_  
**Log No.:** \_\_\_\_\_

**TOWN OF \_\_\_\_\_**  
**SITE PLAN REVIEW/SPECIAL USE REVIEW PROCEDURE**

Proposed Development Name	Applicant Name and Address
_____	_____
_____	_____
_____	_____
_____	Phone (    ) _____

	<b>Date of Action</b>
Type of SEQR action determined to be:	
<input type="checkbox"/> type I <input type="checkbox"/> unlisted <input type="checkbox"/> other	_____
EAF form filed.	_____
Environmental significance determined by:	
<input type="checkbox"/> positive declaration <input type="checkbox"/> negative declaration <input type="checkbox"/> conditional negative declaration	_____
(Note: positive declaration will initiate steps not on this checklist)	
Fee paid.	_____
Application accepted as complete.	_____
Application submitted to county planning agency.	_____
County planning agency response received.	_____
Motion to hold or waive public hearing.	_____
(Waiver may be used only for site plan review procedure)	
Notice of hearing published in paper.	_____
Notice of hearing mailed to applicant.	_____
Public hearing held--motion to close hearing.	_____
Action taken on application:	
<input type="checkbox"/> approval <input type="checkbox"/> approval with modifications <input type="checkbox"/> disapproval	_____
Resolution addressing county planning agency review.	_____
Report filed with county planning agency.	_____
Application endorsed by planning board.	_____
Records filed with town clerk.	_____
Decision mailed to applicant.	_____
Zoning permit issued.	_____
Certificate of occupancy issued.	_____

Tax Parcel Number: Section: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_  
 Log No.: \_\_\_\_\_

**TOWN OF \_\_\_\_\_**  
**APPEALS PROCEDURE**

Proposed Development Name	Applicant Name and Address
_____	_____
_____	_____
_____	_____
_____	Phone (    ) _____

**Date of Action**

Application for appeal received.	_____
Type of SEQR action determined to be:	_____
<input type="checkbox"/> type I <input type="checkbox"/> unlisted <input type="checkbox"/> other	_____
EAF form filed.	_____
Environmental significance determined by:	_____
<input type="checkbox"/> positive declaration <input type="checkbox"/> negative declaration <input type="checkbox"/> conditional negative declaration	_____
(Note: positive declaration will initiate steps not on this checklist)	
Fee paid.	_____
Motion to hold public hearing.	_____
Notice of hearing published in paper.	_____
Notice to parties and regional state park commission.	_____
Application submitted to county planning agency. ( <i>variance only</i> )	_____
County planning agency response received.	_____
Public hearing held--motion to close hearing.	_____
Action taken on application:	_____
<input type="checkbox"/> approval <input type="checkbox"/> conditional approval <input type="checkbox"/> disapproval	_____
Entry of decision into minutes.	_____
Resolution addressing county planning agency review. ( <i>variance only</i> )	_____
Report filed with county planning agency. ( <i>variance only</i> )	_____
Records filed with town clerk.	_____
Decision mailed to applicant.	_____
Notification of zoning officer.	_____

<b>Tax Parcel Number:</b> _____	<b>Section:</b> _____	<b>Block:</b> _____	<b>Lot:</b> _____
			<b>Log No.:</b> _____

**TOWN OF \_\_\_\_\_**  
**ZONING PERMIT PROCEDURE**

<b>Proposed Development Name</b>	<b>Applicant Name and Address</b>
_____	_____
_____	_____
_____	_____
_____	Phone (    ) _____

	<b>Date of Action</b>
Application received.	_____
Supplemental material received.	_____
Fee paid, amount: \$ _____	_____
Application referred to planning board.	_____
Application approved by planning board.	_____
Zoning permit: <b>G</b> issued <b>G</b> denied	_____
Reasons for denial: _____	
_____	
_____	
_____	
Application appealed, ZBA log number: _____	_____
Application referred to building inspector.	_____
<b>Zoning inspections:    Remarks:</b>	
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
Certificate of occupancy: <b>G</b> issued <b>G</b> denied	_____
Reasons for denial: _____	
_____	
_____	
Records filed with town clerk.	_____